

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JAMES LAMONT BALDWIN,)	No. C 09-4749 CW (PR)
)	
Petitioner,)	ORDER GRANTING MOTION FOR
)	APPOINTMENT OF COUNSEL; AND
v.)	GRANTING PETITIONER'S
)	COUNSEL AN EXTENSION OF TIME
DERRAL ADAMS, Warden,)	TO FILE TRAVERSE
)	
Respondent.)	(Docket no. 11)
_____)	

The petition for a writ of habeas corpus was filed on October 6, 2009. An Order to Show Cause issued on March 17, 2010, and on January 11, 2011, Respondent filed an Answer.

Before the Court is Petitioner's request for the appointment of counsel. A. J. Kutchins, by whom Petitioner was represented in state court, appeared specially for Petitioner by filing the present motion for appointment of counsel. Mr. Kutchins states that, while he "cannot afford to undertake representation of Petitioner on federal habeas on an entirely pro bono basis," he would do so if the Court appointed him. (Mot. for Appt. of Counsel at 2 n.1.)

The Sixth Amendment's right to counsel does not apply in habeas corpus actions. See Knaubert v. Goldsmith, 791 F.2d 722, 728 (9th Cir. 1986). The Court may, however, appoint counsel to represent a habeas petitioner whenever "the court determines that the interests of justice so require and such person is financially unable to obtain representation." 18 U.S.C. § 3006A(a)(2)(B). The decision to appoint counsel is within the discretion of the district court. See Chaney v. Lewis, 801 F.2d 1191, 1196 (9th Cir. 1986); Knaubert, 791 F.2d at 728; Bashor v. Risley, 730 F.2d 1228, 1234 (9th Cir. 1984).

1 Here, Petitioner asserts five claims for relief: (1) that he
2 received constitutionally ineffective assistance of counsel;
3 (2) that the prosecutor committed prejudicial misconduct in
4 violation of the Fifth and Fourteenth Amendments; (3) that the
5 trial court's admission of the two taped statements between
6 Petitioner and his girlfriend violated his Fifth and Fourteenth
7 Amendment rights; (4) that the trial court's admission of evidence
8 of threats against witnesses violated his constitutional rights;
9 and (5) that the trial court failed to investigate sufficiently a
10 claim of jury tampering. (Pet. at 6.)

11 The Court finds that the appointment of counsel is warranted
12 in this action and that Mr. Kutchins is already familiar with the
13 facts of the case. Therefore, the Court appoints Mr. Kutchins to
14 represent Petitioner in this action. The motion for appointment
15 of counsel (docket no. 11) is GRANTED. Counsel should seek
16 reimbursement pursuant to 18 U.S.C. § 3006A(d) and (e) via the
17 Federal Public Defender's Office.

18 In light of this Order appointing counsel, the Court will
19 GRANT Petitioner's counsel an extension of time to file a
20 traverse. Petitioner's traverse is due on May 13, 2011. The
21 matter will thereafter be submitted on the papers.

22 The Clerk of the Court shall send a copy of this Order to
23 A.J. Kutchins, P.O. Box 5138, Berkeley, California 94705, to
24 Petitioner, to the Federal Public Defender, and to Respondent.

25 IT IS SO ORDERED.

26 DATED: 3/25/2011

27 

28 CLAUDIA WILKEN
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

JAMES LAMONT BALDWIN,

Plaintiff,

v.

DERRAL ADAMS et al,

Defendant.

Case Number: CV09-04749 CW

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on March 25, 2011, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

James Lamont Baldwin V52337
Corcoran State prison
P.O. Box 5244
Corcoran, CA 93212

A.J. Kutchins,
P.O. Box 5138,
Berkeley, California 94705

Federal Public Defender
Northern District of California
19th Floor Federal Building - Box 36106
450 Golden Gate Avenue
San Francisco, CA 94102

Dated: March 25, 2011

Richard W. Wieking, Clerk
By: Nikki Riley, Deputy Clerk

United States District Court
For the Northern District of California